IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4125 OF 2007

Nivrutti Damu Kamble .... Petitioner

versus

Sane Guruji Shikshan Prasarak Mandal
and others. ..... Respondent.

Ms. Subhangi Borade i/b Seema Sarnaik for the petitioner
Shri S.K.Chinchalikar AGP for respondents

CORAM; A.P. DESHPANDE, J.
DATED; 22ND JUNE, 2007

P.C.;

1. This petition is directed aginst an order passed by the School Tribunal rejecting an application for codonation of delay filed by the petitioner/appellant.

2. The post of Assistant Head Master fell vacant in the school and the management promoted the respondent no.5 to the post of Asstt. Head Master on 1-12-2001 . The petitioner has been all along, even prior to the retirement of the earlier incumbent, making representation to the management for appointing him to the post of Asstt. Head Master. The petitioner chose not to file an appeal till June 2005 and belatedly, after a period of more than three years filed appeal along with an application seeking condonation of

delay. As the tribunal found that no sufficient cause was shown to codone the delay, has rejected the appliction. The learned counsel for the petitioner submits that in the matter of promotion the cause of action is always continuous and hence the limitation ought not to be made applicable. The submission cannot be accepted for the reason that section 9 itself provides for limitation of 30 days to file appeal.

3. Placing reliance on a Division Bench judgment of this court reported in 1993 (2) C.L.R. page 419 it is submitted that the delay need to be condoned. The said judgment petains to delay caused in an appeal directed against an order of termination and the delay was hardly of six months. As in the facts of the said case, the court found that there was sufficient cause has condoned the delay. As there is no merit in the petition, the same stands dismissed summarily.

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